

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Application of Wisconsin Energy Corporation for
Approval to Acquire the Outstanding Common Stock of
Integrus Energy Group, Inc.

Docket No. 9400-YO-100

INITIAL BRIEF OF JOBS4WI, INC.

INTRODUCTION AND SUMMARY

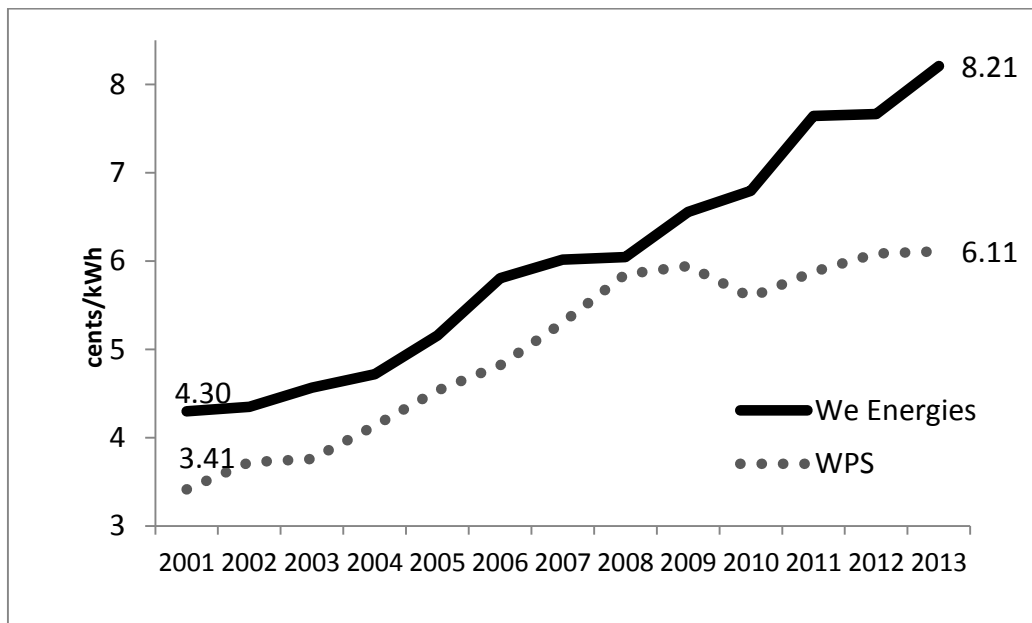
This proceeding has been initiated upon the application of Wisconsin Energy Corporation, a Wisconsin utility holding company (WEC) (the Applicant), to acquire shares of Integrus Energy Group, Inc., a Wisconsin utility holding company (TEG). WEC owns two Wisconsin utilities - Wisconsin Electric Power Company (WEPCO) and Wisconsin Gas LLC (WG) and TEG owns, among other entities, Wisconsin Public Service Corporation, a Wisconsin public utility (WPS). Both WEC and TEG are Wisconsin utility holding companies formed under and subject to regulation under Wis. Stats. Section 196.795. The Applicant seeks the approval of the Public Service Commission of Wisconsin (the Commission) to acquire TEG, placing WEPCO, WG and WPS under the control of one utility holding company.

The combination of two Wisconsin utility holding companies is not a corporate action which can be taken as a matter of right. Unlike the combination of unregulated corporations, this type of transaction is not simply constrained by the strictures of anti-trust laws. The public has a unique interest in the ownership and operation of public utilities created under state grants of monopoly franchises (see Wisconsin Statutes Chapter 196 generally). To protect this public interest, Wisconsin law does not permit state utilities or state utility holding companies to merge or be acquired without the prior approval of the Commission.

Section 196.795(3) requires that in order to approve a holding company acquisition, substantial evidence in the record must support affirmative findings by the Commission that the transaction will be in the “best interests” of utility customers, investors and the public. For utility customers, “best interests” is defined according to the clear meaning of the statutory language and the legislative intent to mean improved reliability or a reduction of customer costs (i.e. lower rates). (See Section II) This record has involved no testimony or evidence regarding reliability. Therefore in this case, to make such an affirmative finding there must be substantial evidence in the record that the transaction will produce lower rates for utility customers, improve the quality of the utility investments for investors and improve the circumstances for the public.

The transaction will have an extraordinary impact on Wisconsin. WEC and TEG serve a majority of the state but have notably different cost and rate structures. The average industrial power rates of WEPCO and WPS are compared below in Figure 1.

FIGURE 1 – WEPCO vs WPS Average Industrial Power Rates



(Direct-Jobs4WI-Vock-6, L1)

The Commission must consider these differences when reviewing the transaction.

This brief is submitted on behalf of Jobs4WI, Inc. (Jobs4WI), an interest group created to advocate on behalf of industrial power customers in Wisconsin. Jobs4WI has intervened in this proceeding because of its concern that the transaction could be approved without the Applicant clearly establishing how the transaction will be in the best interests of customers, including the large industrial class.

Jobs4WI is not against utility merger transactions generally, but has concluded that this transaction should not be approved in the manner requested by the Applicant. The substantial evidence in the record does not support the Commission making a finding that utility customers, investors and the public will necessarily be better off because of the transaction.

Jobs4WI has become active in the regulatory processes affecting Wisconsin's electric utilities as the result of the alarming negative trends in Wisconsin's industrial power prices over the past 15 years. Jobs4WI is particularly concerned that the managements of two Wisconsin utility holding companies and three Wisconsin utilities not be distracted from their primary responsibilities of providing reliable power at reasonable cost to their customers by the challenges of implementing a large scale merger.

The relative cost of power to utility customers in Wisconsin has soared compared to the rest of the region, and compared to the cost of power being supplied to competitors and inter-company competitors (comparable facilities owned by the same corporate entity) located in other states. (See Figure 2) Approval of the transaction as proposed by the Applicant will not necessarily do anything to reverse the trend of ever higher industrial power costs in Wisconsin.

However, Jobs4WI believes the transaction can be approved with certain conditions imposed by the Commission and accepted by the Applicant that would establish with certainty

how customers, investors and the public will benefit. Such conditions would shift the economic risks created by this transaction away from utility customers and onto the Applicant. This is what Wis. Stat. §. 196.795(3) requires – a demonstrable certainty that the acquisition of a holding company and the indirect acquisition of its utility subsidiaries will result in benefits (in this case lower electric rates) for customers. (See Section II) Such conditions would allow the Commission to find that the proposed transaction, as modified, will meet the standard under Wis. Stat. § 196.795(3) of being in the best interests of Applicants’ customers, the public and investors. Approval of the transaction under these conditions could be an important step for Wisconsin in reversing its negative cost trend and achieving more competitive power costs for electric customers in the state.

These conditions are detailed in Section VII and summarized as follows:

- 1. The Applicant should be required to reduce its recoverable non-fuel O&M costs by 5% below current levels in each utility’s service territory in the next rate case.**
- 2. The Applicant should be required to write-off the outstanding balance of WEPCO’s deferred transmission costs in the next rate case.**
- 3. The Applicant should be required to file a new tariff with the Commission allowing high-voltage customers connected directly to the transmission grid to purchase electric power at retail tariff prices that shadow wholesale power prices.**
- 4. The Applicant should be required to assist the Commission in eliminating the recovery of excess generation capacity and costs from the WEPCO and WPS service territories.**
- 5. The Applicant should be required to divest all of its interest in ATC.**

6. The Applicant should be required to physically and financially isolate all of the Michigan operations from its Wisconsin operations by forming a separate Michigan utility as soon as feasible.
7. The Applicant should be required to accept a “most favored nations” condition that will allow the Commission to re-open this docket and order the Applicant to grant the same level of benefits to Wisconsin utility customers that it gives utility customers in other jurisdictions.
8. The Applicant should be required to exclude all transaction costs resulting from the transaction in all jurisdictions from recovery in any future rate case.

ARGUMENT

I.

Wisconsin’s industrial electric rates have become uncompetitive and are hurting Wisconsin’s economy.

Wisconsin’s industrial electric rates have increased dramatically over the past decade and are now among the very highest in manufacturing-dependent states. (See Figure 2) Wisconsin’s heavy manufactures now operate at a competitive cost disadvantage by paying significantly more for electric power than their competitors located in other manufacturing intensive states. (Direct-Jobs4WI-Vock-3.L20-21). We believe the proposed transaction could perpetuate and expand the impact in Wisconsin of high industrial power rates.

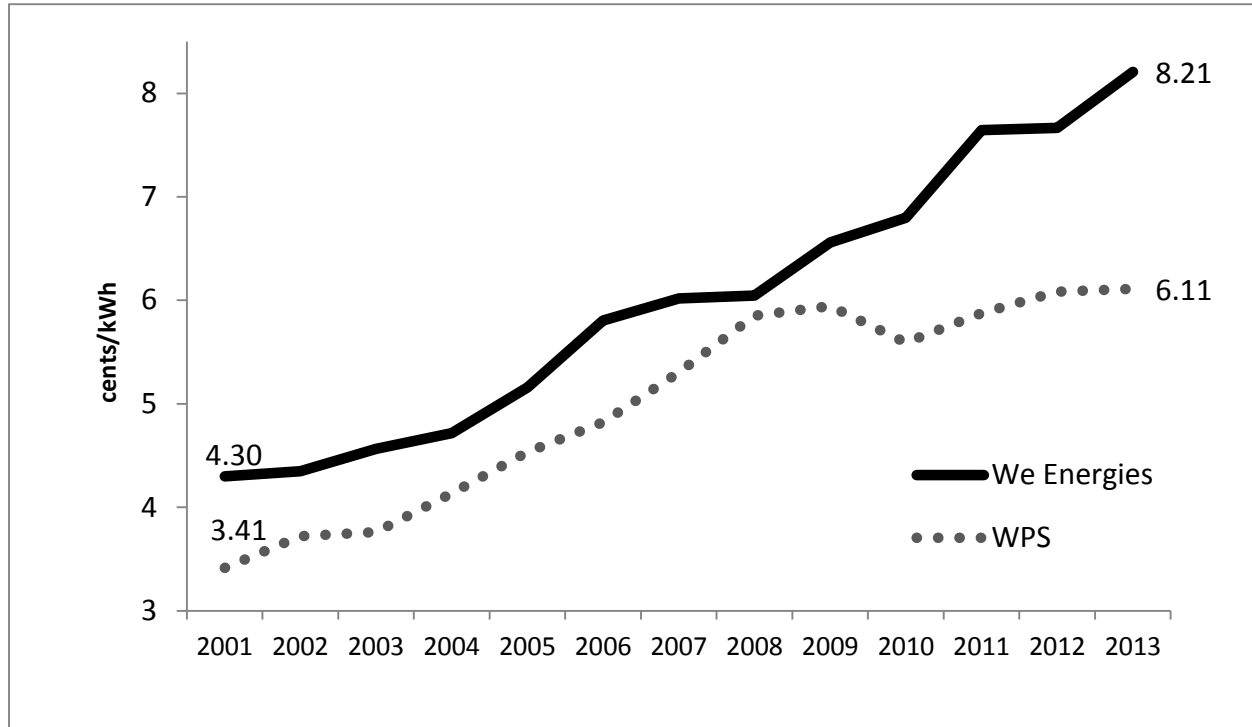
Figure 2 – Manufacturing Dependent State Average Industrial Power Rates

Top 10 Manufacturing Dependent States														
Average Industrial Power Rates (cents/kWh)														
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Rank
United States	5.05	4.88	5.11	5.25	5.73	6.16	6.39	6.96	6.83	6.77	6.82	6.67	6.82	
Alabama	3.79	3.82	3.98	4.15	4.52	4.90	5.27	6.11	5.96	6.01	6.25	6.22	5.99	5
Indiana	4.11	3.95	3.92	4.13	4.42	4.95	4.89	5.46	5.81	5.87	6.17	6.34	6.59	8
Iowa	4.18	4.06	4.16	4.33	4.56	4.92	4.74	4.81	5.27	5.36	5.21	5.30	5.66	2
Kentucky	3.04	3.09	3.21	3.34	3.60	4.05	4.47	4.82	4.92	5.05	5.33	5.35	5.40	1
Michigan	5.08	5.02	4.96	4.92	5.32	6.05	6.47	6.73	6.98	7.08	7.32	7.62	7.78	10
North Carolina	4.61	4.70	4.79	4.88	5.04	5.23	5.47	5.54	5.99	6.17	6.01	6.42	6.34	7
Ohio	4.27	4.87	4.79	4.89	5.10	5.61	5.76	6.20	6.72	6.40	6.12	6.24	6.10	6
Oregon	4.21	4.72	4.63	4.43	4.83	4.85	5.06	5.26	5.40	5.40	5.47	5.59	5.86	3
South Carolina	3.86	3.85	4.00	4.13	4.55	4.71	4.83	5.37	5.79	5.74	5.94	6.02	5.92	4
Wisconsin	4.36	4.43	4.71	4.93	5.39	5.85	6.16	6.51	6.73	6.85	7.33	7.34	7.54	9
Average	4.15	4.25	4.32	4.41	4.73	5.11	5.31	5.68	5.96	5.99	6.12	6.24	6.32	
All cost data obtained from EIA.														
Top 10 Manufacturing Dependent States determined by combined ranking of manufacturing's share of employees and gross state output.														
Manufacturing economic data is from two reports published by the National Association of Manufacturers that detailed Manufacturing's share of Gross State Product and Employment for each state, which cite the Bureau of Economic Analysis as the data source.														

(Direct-Jobs4WI-Vock-4, L1)

Once the transaction is complete, the Applicant's board of directors and management team will control utilities serving a majority of Wisconsin's citizens and heavy manufacturers. Although both utilities operate in similar environments, WEPCO's industrial power rates are now 34% higher than WPS's industrial rates, to the detriment of WEPCO's customers. (See Figure 3)

FIGURE 3 – WEPCO vs WPS Average Industrial Power Rates



(Direct-Jobs4WI-Vock-6, L1)

If future rate increases for the now lower-cost provider, WPS, are similar to WEPCO's recent rate trajectory, the transaction will produce higher electric power costs than otherwise would be the case. Continued rate increases could initiate the exodus of manufacturing to lower cost states and regions and Wisconsin could face the loss of thousands of manufacturing jobs.

(Direct-Jobs4WI-Vock-15, L13-14)

II.

The Commission must apply the statutory “best interests” test as set forth in Wis. Stat. S 196.795(3) and as supported by the legislative intent set forth in 1985 Act 79 in determining whether it can approve the transaction.

Wis. Stat. §. 196.795(3) regulates the acquisition of a public utility holding company in Wisconsin. The statute states:

*No person may take, hold or acquire, directly or indirectly, more than 10% of the outstanding voting securities of a holding company, with unconditional power to vote those securities, unless the Commission has determined, after investigation and an opportunity for hearing, that the taking, holding or acquiring is in **the best interests** of the utility customers, investors and the public. (Emphasis added).*

A plain reading of this statute clearly requires the Commission to approve the transaction ONLY if the transaction is determined, after reviewing the facts in the record, to be in the “best interests” of utility customers, investors and the public.

The benefit to utility customers necessary to satisfy the statutory “best interests” test is set forth in the legislative history language of 1985 Wisconsin Act 79 Section 1(6) which states:

*(6) Utility customers and investors **benefit** when a nontelecommunications public utility **reduces the cost** or increases the reliability of utility service through such means as conservation and renewable energy or business functionality related to the provision of utility service. (Emphasis added).*

Reliability improvements are not in dispute in this docket. WEPCO is currently rated the most reliable electric utility in the nation (Direct-WEC-Lauber-4, L10) and WPS is also viewed as reliable (Surrebuttal-WEC-Reed-12, L8-9) so the only outcome from the transaction that can benefit customers and be in their “best interests” is lower power costs.

An appropriate reading of the statute clearly requires a finding of lower customer rates in the future for the transaction to be in the best interests of utility customers. Therefore, substantial evidence in the record needs to reflect a benefit of lower rates for customers which is not simply speculative.

III.

The Applicant has failed to provide substantial evidence in the record that customers will see lower electric rates in the future as a result of this transaction.

The Applicant's management refuses to provide assurance that the transaction will produce lower customer rates necessary to meet the statutory requirement for approval. Mr. Allen Leverett, President of WEC, made it clear in his answers to Ms. Loehr of CUB in cross examination that utility customers cannot necessarily expect to see any benefit from the transaction (Leverett- Technical Session Transcript, Page 17, L22 – 25, Page 18, L1-12):

Q: Okay. On your surrebuttal, page 10, lines 11 through 14, you state that net savings of the transaction estimated by Mr. Reed to be 3 to 5 percent of non-fuel O&M over time will be passed on to ratepayers, thus ratepayers, quote, will benefit from the transaction, and the will is in emphasis. So is WEC guaranteeing benefits to customers from the transaction?

A: No.

Q: At no dollar amount?

A: No.

Q: But you state there will be benefits?

A: Yeah, expect there will be.

Q: But you're not willing—the company's not willing to guarantee any of them?

A: No.

Mr. Scott Lauber, WEC Vice President and Treasurer states, *"Because the Transaction is not motivated by a desire to immediately -- or even in the medium term -- significantly reduce*

employee headcount, customers should not expect to see reductions in rates, at least in the short term.” (Direct-WEC-Lauber-7. Lines 6-8)

The Applicant’s witness, Mr. Reed confirms the Applicant’s position.

Q. Will the Transaction have any near-term impact on rates?

A. No. None of the WEC Energy Group utilities is proposing any changes to rates at this time as a result of the Transaction. As discussed in more detail later in my testimony and in the testimony of Mr. Lauber, this Transaction is not based on expected short-term savings sometimes seen in mergers, which generally have occurred as the result of significant layoffs. Efficiencies are expected to be identified and realized over time, with no meaningful net savings expected in the near term. (Direct-WEC-Reed-8.L9-15)

It is clear from the Applicant’s testimony that the transaction will not produce any certain or quantifiable rate reduction for utility customers now or in a time horizon capable of being analyzed accurately or even projected. The customer benefits suggested by the Applicant are at best, speculative. Therefore, the transaction does not meet the statutory test of being in the “best interests” of the utility customers, which in this case requires lower rates. The Commission should deny the Applicant’s request for approval based upon the facts presented by the Applicant in its own testimony.

IV.

Customers will incur significant risk of future rate increases if the transaction is approved without conditions.

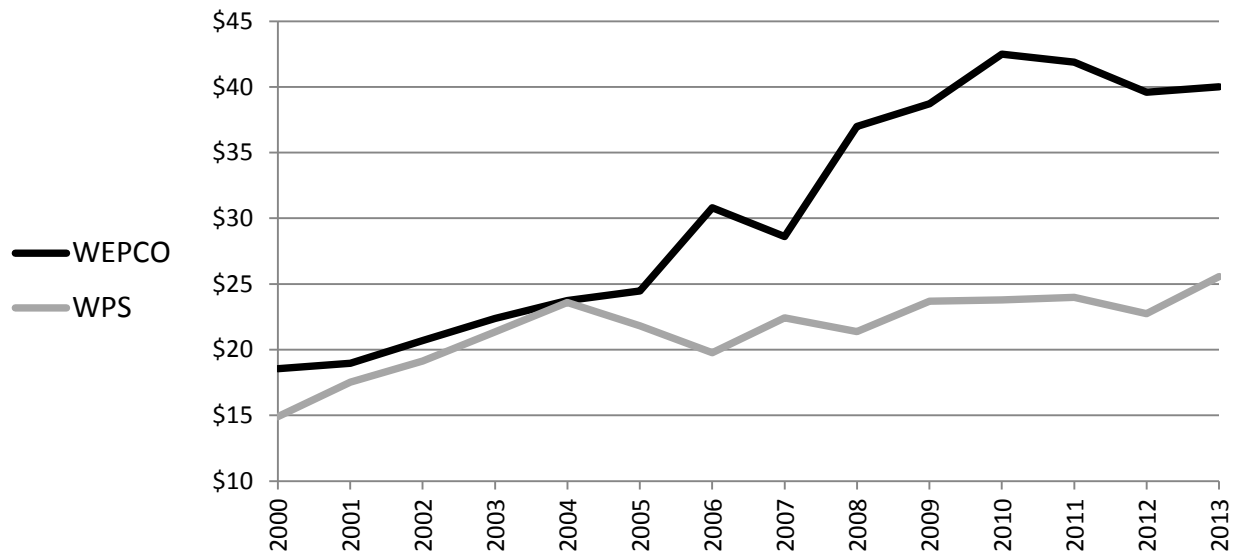
Utility customers cannot count on any concrete or guaranteed benefit from the transaction but will assume significant risk that power rates will continue to rise after the transaction is approved. The transaction introduces the following material and significant risks of increased costs – all of which could adversely affect future rates:

1. Utility customers are at risk of seeing substantially higher rates in the future from the Applicant's assumption of control over WPS operations.

Although WPS and WEPCO will remain independent utilities for regulatory purposes, both will be controlled by the same WEC board and management team that produced materially higher costs and customer electric rates in the WEPCO service territory over the past decade. (See Figure 1) While operating in similar environments, the Applicant-controlled utility, WEPCO, produced materially different operating results than TEG's utility, WPS. WEPCO's industrial power rate increases outpaced WPS so much that WEPCO's rates are now 34% higher than WPS (Direct-Jobs4WI-Vock-10, L7) with non-fuel O&M costs that are 60% higher than WPS. (Rebuttal-Jobs4WI-Vock-4, L2)

The Applicant has testified that it has no concrete plan to control its future O&M costs, but that it might be able to reduce its non-fuel O&M costs by 3% to 5% over the next 5-10 years. (Direct-WEC-Reed-34, L16-21) It is important to understand how the Applicant's history appears to conflict with this projection of the future. Following the Applicant's acquisition of WICOR, Inc. (WICOR) in 2000, non-fuel O&M costs were monitored until 2004. (Rebuttal-Jobs4WI-Vock-7, L14-15) After the merger monitoring period ended, "WEPCO's non-fuel O&M costs per MWh grew at an average rate that was six times faster than WPS's rate as shown in Figure 4. (Rebuttal-Jobs4WI-Vock-7, L14-16)

Figure 4 – WEPCO vs WPS Non-Fuel O&M Costs per MWh



(Rebuttal-Jobs4WI-Vock-3, L12)

WEC's O&M cost control history creates the real risk to utility customers of significantly higher electricity prices in WPS's service territory and no additional mitigation of pricing in WEPCO's territory than would otherwise be the case without the transaction. If the future emulates the past, it is reasonable to conclude that customers of both utilities will experience substantial risks of rate increases as a result of the transaction.

2. WEC may be less financially stable after the transaction.

Today, WEPCO's customers have the benefit of a holding company with no barriers to accessing low-cost capital (Rebuttal-Jobs4WI-Vock-9, L6-7) that is so financially strong that it is paying down debt and buying back stock. (Rebuttal-Jobs4WI-Vock-9, L14-16) After the transaction, WEPCO's customer's rates might be affected by holding company credit rating issues affected by taking on \$1.5 billion in debt, (Direct-WEC-Lauber-12, L10) expanding into

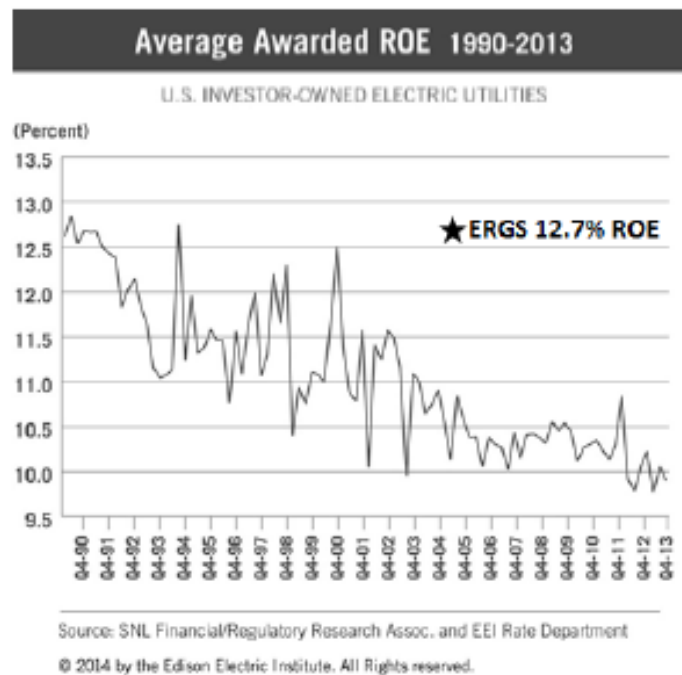
new jurisdictions (Direct-WEC-Lauber-13, L8-9) and planning on using WEPCO's strong cash position to subsidize capital projects for other utilities (Direct-Jobs4WI-Vock-14, L10-14).

3. Combining WEPCO's excess generation capacity with WPS's capacity without right-sizing will assure higher than necessary power prices.

WEPCO has significantly overbuilt generating capacity and proceeding with this merger without evaluating the option of using WEPCO's excess capacity for the benefit of the public and customers would not be prudent. (Rebuttal-Jobs4WI-Vock-11, L3-5) Although the Applicant has agreed to Joint Resource Planning, this only addresses new capacity and would ignore WEPCO's current overcapacity. (Rebuttal-Jobs4WI-Vock-10, L12-14)

Power the Future (PTF), which includes the Elm Road Generating Station (ERGS), contributes to WEPCO's high power costs. (Direct-Jobs4WI-8, L7-8) When PTF was adopted, the PSCW believed that the program would be beneficial, (Direct-Jobs4WI-Vock-6, L7-8) but instead, it has proven to be materially more costly for rate payers than would have been the case with conventional utility ownership and with the return on equity established in each rate case. (Direct-Jobs4WI-Vock-7, L2) ERGS was approved under special financing that locked in a Return on Equity (ROE) significantly above ROE's being awarded to public utilities during that time period or any prolonged period in the past, as shown in Figure 5. (Direct-Jobs4WI-Vock-5, L5-7 and 8, L1-2)

Figure 5 – ERGS ROE compared with Average IOU ROE



(Direct-Jobs4WI-Vock-8, L3)

In 2013, ERGS ran at a 23% capacity factor with an average production cost of \$14.76 cents/kWh. (Direct-Jobs4WI-Vock-6, L11-12) Today, ERGS's annual lease payment of \$286 million costs every WEPCO ratepayer 1 penny for every kW consumed over the entire service territory (Rebuttal-Jobs4WI-Vock-12, L7-10) and an extra half a penny for every kWh produced by ERGS. (Rebuttal-Jobs4WI-Vock-12, L10-14) This excess capacity and variable cost problem should be addressed in this proceeding, not deferred to later dockets.

4. Credit rating downgrades could increase WEC's cost for capital and customer prices.

The transaction will impose risks on utility customers from potential credit rating downgrades of WEC by rating agencies. (Direct-WIEG-Kollen-12, L16-20) The rating agencies have made it clear that ratings of utilities can be directly affected by negative trends at the holding company level. (Rebuttal-Jobs4WI-Vock-5, L19-20) The Applicant's own history demonstrates how this risk is real. In 2003, Moody's downgraded the credit rating of both WEC and WEPCO, due in part, to WEC's debt financed acquisition of WICOR. (Ex.-Jobs4WI-Vock-3). Similarly, WPS suffered a credit rating reduction in 2009 due to a credit rating downgrade at the TEG holding company level. (Ex.-Jobs4WI-Vock-2)

In this transaction, the Applicant will assume \$1.5 billion in new debt to purchase TEG shares. (Direct-WEC-Reed-5, L4) WEC was put on credit watch when the transaction was announced. (Direct-WEC-Reed-5, L13-17) This could lead to a credit rating downgrade, which could negatively affect the cost of borrowing for WPS and WEPCO. (Direct-WIEG-Kollen-12, L16-20) These costs would be passed on to customers in future rate cases.

V.

Investors will not benefit from Commission approval of this transaction.

Wis. Stat. S. 196.795(3) requires that the approval of any change in control of a Wisconsin utility holding company also must be in the best interests of "investors." The Applicant offers only speculative testimony that WEC shareholders might realize any benefit sufficient to compensate for the 22.8% premium being paid to TEG shareholders. (Application-WEC-9) WEC shareholders will assume all of the risk from the transaction that might decrease shareholder value, including:

1. WEC may experience a credit rating downgrade.

The risk of a credit rating downgrade is real if the transaction is approved. WEC was placed on credit watch when it announced the transaction. (Direct-WEC-Reed-5, L13-17) Similarly, WEC experienced a credit rating downgrade because of debt obligations associated with the WICOR merger. (Ex.-Jobs4WI-Vock-3) If WEC's credit rating deteriorates as a result of the transaction, investors will be damaged.

2. WEC may experience problems and unexpected costs while integrating the two companies.

The transaction will create the largest electric utility holding company in Wisconsin's history (Direct-Jobs4WI-Vock-9, L11-12) and one of the largest utility holding companies in the nation. (Direct-WEC-Reed-6, L6) As the Applicant attempts to successfully execute its merger strategy, management may be distracted from the goal of lowering operating costs, because of pressure on the Applicant to realize earnings projections. We note the Applicant did not create a synergies study to adequately predict any cost savings so it cannot predict the ultimate cost of the transaction. (Direct-WEC-Reed-34, L20-21) This could create negative uncertainty in the capital markets damaging to investors. Investment value may fall if the Applicant cannot manage or limit the costs of this transaction and otherwise derive value from the acquisition.

3. WEC may experience increased regulatory pressure.

In evaluating regulatory risk, rating agencies consider whether a utility is a low or high cost provider as part of their analysis of regulatory risk associated with a utility's earnings. Because WEPCO's industrial power rates are well above rates in peer manufacturing states, (See Figure 2) WEPCO could face a growing risk of unrecoverable costs if the Commission or the legislature decide to adopt policies to return Wisconsin's industrial rates to competitive levels. This regulatory risk will certainly increase if WPS's industrial customers experience future rate increases matching WEPCO's recent history.

4. WEC will be operating in new, less-familiar jurisdictions.

The Applicant believes that operating in multiple new jurisdictions will provide a benefit through diversification (Direct-WEC-Reed-10, L1-2) but we believe it introduces additional costs and risks. For example, the Illinois Commerce Commission (ICC) announced they are considering an escalation of their review of the cost overruns in People's Gas main replacement project. (Leverett- Technical Session Transcript, Page 14, L18-21) This risk to WEC may impact investors. Also, the Michigan situation is in constant flux and the outcome will not be clearly determined until after the Commission closes the record in this docket. The Michigan outcome may have a significant and material impact on WEC, TEG and their subsidiaries. WEC investors will shoulder that risk.

The Applicant has not demonstrated in the record how the transaction, with any degree of certainty, will be in the best interests of investors. Therefore, the Commission cannot approve the transaction as proposed.

VI.

The Public will not benefit from Commission approval of this transaction.

The Commission was created to protect the public's interest in having available to its citizens an adequate supply of reasonably priced and reliable electric power. The following may prevent the Applicant from providing reasonably priced and reliable electric power:

1. The diversity of Wisconsin's regulatory portfolio will be materially reduced.

Although WPS and WEPCO will remain separate utilities under the WEC holding company, both will report to one holding company and their common management will lead to uniformity in operations between what are now two independent utilities. (Direct-Jobs4WI-Vock-3, L14-17) The Applicant has testified that it intends to seek synergies between the two utilities in an attempt to reduce operating costs at some indefinite point in the future. (Direct-WEC-Reed-34, L14-19) These synergies will result in policies that cover a majority of Wisconsin utility customers. In short order, the Commission will lose regulatory flexibility by having the majority of Wisconsin's electric customers served by utilities controlled by a common management group and strategy.

Today, the Commission oversees a diversified portfolio of regulated utilities and has the opportunity to experiment with regulatory policy over this diverse group of utilities, in response to their varied management. (Direct-Jobs4WI-Vock-4, L7-14) The Commission can consider all of those different experiences and results when crafting regulatory policy. If the Commission approves the transaction, Wisconsin will lose the diversity of utility management initiatives and have less opportunity to review and compare utility management teams and efforts to improve the operations of all of them through assuring best practices are

adopted by each. It is not in the public's best interests to reduce the effectiveness of the Commission regulatory process or limit the quality of the Wisconsin regulatory laboratory. Wisconsin has traditionally been a leader in utilities regulation and diminishing its ability to craft sound yet creative regulation is not in the public's best interests.

2. Unexpected regulatory outcomes will impact a far greater number of Wisconsin utility customers.

Regulatory actions and policies in the expanded WEC utilities system will impact a larger portion of Wisconsin and experimentation with new regulatory policies will have a much greater impact than with the two utilities as separately managed entities. (Direct-Jobs4WI-Vock-3, L14-19) The unintended consequences of every regulatory decision will be magnified over a large portion of the state's population and business infrastructure (Direct-Jobs4WI-Vock-5, L7-9) because the Commission will have more of its regulatory eggs in the WEC basket.

Creating a single public utility system under common ownership that serves the majority of Wisconsin's population and business infrastructure will concentrate political power and influence in one very large company that has a demonstrated success in influencing decision makers. (Direct-Jobs4WI-Vock-5, L15-19 and 6, L2-5) It is not in the public's best interests to consolidate that level of public influence into one regulated monopoly.

VII.

The Commission should condition the transaction on the following:

- 1. The Applicant should be required to reduce its recoverable non-fuel O&M costs by 5% below current levels in each utility's service territory in the next rate case.**

Under the terms of the proposed transaction, the Applicant intends to pass any non-fuel O&M savings net of transition costs on to its customers in future rate cases. (Reed- Technical Session Transcript, Page 129, L14-23) But, according to the Applicant's testimony, these savings are speculative at best and will not result in a rate decrease in the foreseeable future. (See Section III) Asking the Commission to rely upon the Applicant's speculative savings projections to ensure customer rate reductions does not constitute substantial evidence that the transaction will meet the best interests standard set forth under Wisconsin law. It is in the best interests of utility customers to condition the transaction on the Applicant's agreeing to reduce a defined portion of its non-fuel O&M costs in the next rate case to assure lower rates in the future.

- 2. The Applicant should be required to write-off the outstanding balance of WEPCO's deferred transmission costs in the next rate case.**

WEPCO customers currently face a substantial and looming rate increase in the form of the projected \$500 million transmission deferrals. (Direct-Jobs4WI-Vock-17, L1-3) Eliminating this future rate increase would be a direct benefit to customers and would be in their best interests by removing this uncertainty from future rate cases. This condition is not excessive compared to the risks of future rate increase that the transaction will impose on WEPCO's customers. (See Section IV)

- 3. The Applicant should be required to file a new tariff with the Commission allowing high-voltage customers connected directly to the transmission grid to purchase electric power at retail tariff prices that shadow wholesale power prices.**

This would assure that the transaction is beneficial and in the best interests of industrial customers while helping make Wisconsin's industrial customers competitive with their competitors in regional and national power markets. (Direct – Jobs4WI – Vock – 16). One of the largest cost inputs to Wisconsin manufacturers is electric power costs. (Direct-Jobs4WI-Vock-15, L10) These costs must be competitive for these companies to remain in Wisconsin and preserve thousands of living wage jobs. (Direct-Jobs4WI-Vock-15, L7-17) In requiring this condition, the Commission would provide a benefit for Wisconsin's large industry that is similar to the benefit the Applicant is offering to its large industrial customers in Michigan. (Ex.-PSC-Hubert-6 and 7)

- 4. The Applicant should be required to assist the Commission in eliminating the recovery of excess generation capacity and costs from the WEPCO and WPS service territories.**

To assure the transaction is in the best interests of customers and help provide the most reliable electric power to customers at the lowest possible price, the Applicant's should be required to agree by stipulation to return PTF to Commission oversight, regarding the ROE on the largest assets earning returns in the WEPCO generating portfolio, participate in joint resource planning and agree to eliminate retail cost recovery for any generation asset that is not found to be both used and useful. This can be accomplished in the next rate case or in a separate docket.

5. The Applicant should be required to divest all of its interest in ATC.

Once the transaction is approved, WEC customers will risk higher rates stemming from WEC's 60%+ ownership of ATC. (Direct-WEC-Lauber-14, L23) The Applicant has offered to limit its voting power on the ATC board of directors (Direct-WEC-Lauber-15, L7) but the Applicant will own ATC and will benefit from its earnings. Neither the Applicant nor its Wisconsin regulated subsidiaries will have any incentive or interest in advocating for lower transmission rates when it is receiving 60%+ of the profits from ATC's operations. ATC transmission costs have quadrupled since ATC's inception (Ex.-GLU-Kothari-2) and continued escalation will lead to economically damaging rate increases for Wisconsin's industrial customers. WEC can divest its interest in ATC and should realize a handsome gain in the process. This would restore the dynamic tension between the transmission rate payers and the transmission service providers which ought to exist. Transmission rates should be rigorously contested in all federal proceedings. This includes the utilities which after the merger will be controlled by the same entity that would receive over 60% of the earnings created by those transmission rates. Divestiture is needed to assure arms-length dealings between the retail utilities and the transmission service provider.

6. The Applicant should be required to physically and financially isolate all of the Michigan operations from its Wisconsin operations by forming a separate Michigan utility as soon as feasible.

The Michigan ratepayers should be held responsible for all costs to serve their territory, including any stranded asset costs that were justified by Michigan's service needs. Wisconsin utility customers should be "held harmless" in all aspects of the ongoing Michigan deal-making.

- 7. The Applicant should be required to accept a “most favored nations” condition that will allow the Commission to re-open this docket and order the Applicant to grant the same level of benefits to Wisconsin utility customers that it gives utility customers in other jurisdictions.**

Wisconsin ratepayers should not be disadvantaged because of the sequence of jurisdictional approvals and the Commission should include wording in its final ruling reserving the right to reopen this docket and adjust the final ruling to ensure that any decisions made in another jurisdiction do not penalize Wisconsin ratepayers or provide more favorable treatment to ratepayers in other jurisdictions.

- 8. The Applicant should be required to exclude all transaction costs resulting from the transaction in all jurisdictions from recovery in any future rate case.**

The Commission should include broad language in its order approving the transaction clarifying that any concession made by the Applicants to gain approval of the transaction from any entity in any jurisdiction, must be considered transaction costs and the Applicant will not seek recovery of those costs in future rate cases.

VIII.
CONCLUSION

For the foregoing reasons, the Commission should deny the Applicant's request to approve the transaction unless the Commission imposes and the Applicant agrees to accept the conditions set forth herein.

Respectfully submitted this 30th day of March 2015.

_____/s/_____
Daniel J. Eastman,
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_____/s/_____
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